

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X	
EAST COAST VENTURE CAPITAL INC.,	:
	:
Plaintiff,	:
	:
-against-	:
	:
JP MORGAN CHASE BANK N.A. and JAMES ASARO,	:
	:
Defendants.	:
-----X	

09-cv-5473(JGK)(JCF)

DECLARATION OF  
JAMES ASARO  
IN SUPPORT OF  
DEFENDANTS' MOTION TO  
DISMISS AND FOR  
SUMMARY JUDGMENT

JAMES ASARO, pursuant to 28 U.S.C. § 1746, hereby declares as follows:

1. I am a Vice President and Branch Manager of Defendant JPMorgan Chase Bank, N.A. (the "Bank"). I make this declaration in support of the Bank's motion to dismiss the complaint in the above-captioned action.

2. This declaration is based upon my personal knowledge, my review of the documentary evidence attached hereto, and the files and records maintained by the Bank in the ordinary course of its business.

3. I am the Branch Manager at the Bank's branch at 386 Park Avenue South, New York, New York, and have held that position since in or about October 2007. As such, I am familiar with the usual and customary business practices at the Bank regarding the opening of bank accounts and record keeping relating to those accounts.

4. In the course of my work at the branch, I was involved in providing services to the plaintiff in this matter, East Coast Venture Capital Inc. ("East Coast" or the "plaintiff").

5. I have personal knowledge regarding the documents submitted herewith as exhibits to this declaration.

6. Attached as Exhibit A to this declaration is a true and correct copy of a printout of the computerized records of the Bank which shows all of plaintiff's accounts with the Bank. Exhibit A identifies two accounts that plaintiff has or had at the Bank, a business checking account with an account number ending in 5291, and a business savings account with an account number ending in 2140. According to the Bank's records, these are the only accounts opened by the plaintiff at the Bank.

7. Attached as Exhibit B is a Business Depository Resolution for East Coast, dated November 6, 2007, for its Business Commercial Checking Account with account number ending in 5291, signed by Yitzhak Zelmanovitch, identifying Zindel Zelmanovitch, Chairman, Frederick Schulman, President, and Yitzhak Zelmanovitch, Vice President and Secretary, as the authorized users of the account. Exhibit B was executed by plaintiff and provided to the Bank in connection with opening the referenced account.

8. Attached as Exhibit C is a Business Signature Card for East Coast, dated December 5, 2007, for its Business Commercial Checking Account with an account number ending in 5291, signed by Zindel Zelmanovitch, Fredrick Schulman and Yitzhak Zelmanovitch, as authorized users of the account. Exhibit C was executed by plaintiff and provided to the Bank in connection with opening the referenced account.

9. Attached as Exhibit D is a Business Depository Resolution for East Coast, dated November 6, 2007, for its Business High Yield Savings Account with account number ending in 2140, signed by Yitzhak Zelmanovitch, identifying Zindel Zelmanovitch, Chairman, Fredrick Schulman, President, and Yitzhak Zelmanovitch, Vice President and Secretary, as the authorized users of the account. Exhibit D was executed by plaintiff and provided to the Bank in connection with opening the referenced account.

10. Attached as Exhibit E is a Business Signature Card for East Coast, dated December 5, 2007, for a Business High Yield Savings Account with account number ending in 2140, signed by Zindel Zelmanovitch, Fredrick Schulman and Yitzak Zelmanovitch. Exhibit E was executed by plaintiff and provided to the Bank in connection with opening the referenced account.


11. Attached as Exhibit F is a copy of the Bank's Account Rules and Regulations, for the "Downstate New York Market," with an effective date of September 15, 2006. Exhibit F was in effect and governed all Business Commercial Checking and Business High Yield Savings Accounts, including East Coast's accounts with the Bank, during the period from December 1, 2007 through June 30, 2008.

12. Attached as Exhibit G is a copy of a letter dated January 7, 2008 that I signed and provided to East Coast on or about that date.

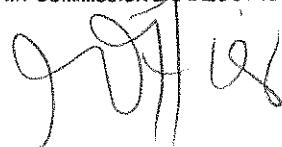
13. Attached as Exhibit H is a copy of a letter dated June 2, 2008, addressed to the Small Business Administration, that I signed and provided to East Coast on or about that date.

14. I am aware that East Coast opened and maintains a brokerage account with CISC, a non-bank affiliate of the Bank. That account is not a bank account, and neither I nor the Bank had or have any control over the opening or administration of that account.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July \_\_, 2009, New York, New York.

  
\_\_\_\_\_  
JAMES ASARO

MARCIA OFFICER  
NOTARY PUBLIC, STATE OF NEW YORK  
QUALIFIED IN NASSAU COUNTY  
NO. 010F8204077  
MY COMMISSION EXPIRES 04-13-2013

 7/17/09

# EXHIBIT A

Customer Summary



Page 1 of 1

**Customer Summary****Customer:** EAST COAST VENTURE CAPITAL INC

Has Business Owner

Non Individual - Corporation - Type 5






**More  
PVC's**[Get Credit Card for your Owner](#)

<b>Address</b> 30 E 29TH RM 204 NEW YORK, NY 10016-7925 United States	<b>Best # to Call</b> 212-685-1551 (Primary)	<b>LOB Indicator</b> Retail Group
<b>SSN/EIN</b> XX-XXX5653 	<b>Market Segment</b> Business Premier	<b>Cost Center</b> 000008
<b>Business Established Date</b> 01/01/2001	<b>Assigned Banker &amp; Branch</b> <u>U764758</u> New York Life	<b>ECI</b> 0395672548 

**Comments**

No Active Comments Available.

**Accounts**

Account #	Type	Status	Relationship	Current Bal
<u>XXXXX5291</u> 	<u>BusinessCustom</u>	 Active	Sole Owner	\$972,201.1
<u>XXXXXXXXXXXX1181</u> 	ATM/Debit Card	Active	Sole Owner	Not Applicab
<u>XXXXXXXXXXXX1199</u> 	ATM/Debit Card	Active	Sole Owner	Not Applicab
<u>XXXXXXXXXXXX1207</u> 	ATM/Debit Card	Active	Sole Owner	Not Applicab

**Closed Accounts**

Show closed accounts?

☒ Yes ☐ No

Account #	Type	Status	Relationship	Current Bal
<u>XXXXXX2140</u> 	<u>Bus High Yield Savings</u>	 Purge Pending	Sole Owner	\$0.0

**Back**

# EXHIBIT B

## BUSINESS DEPOSITORY RESOLUTION

CHASE

NEW CHANGE

ACCOUNT NO. 5291

BANK NAME/NUMBER

JPMORGAN CHASE

JPMORGAN CHASE  
BANK NAACCOUNT TITLE EAST COAST VENTURE  
CAPITAL INC.

BRANCH NAME AND NO.

NEW YORK LIFE

000008

BUSINESS ADDRESS 241 5TH AVE 14-302

DATE  
11/06/07

PREPARED BY

SACHIN KUMAR

PHONE NO.

TAXPAYER ID NO.

PRODUCT TYPE BUSINESS CUSTOM CHECKING 12/684-2406

13-2255653 (SSRIC) APPROVED SHAN BULL AND COMPANY

Legal Name of Business EAST COAST VENTURE CAPITAL INC. (the "Business")

The individual(s) signing this Resolution hereby certifies to JPMorgan Chase Bank, N.A. ("the Bank") that the Business is (check one):

a sole proprietorship owned entirely by the individual signing this Resolution;

a duly formed and valid existing

general partnership limited partnership limited liability partnership limited liability limited partnership joint venture

organized under the laws of the state/country of and the persons signing this Resolution constitute all of the general partners of the partnership

a corporation duly organized and in good standing under the laws of the state/country of DELAWARE and that the individual signing this Resolution is its secretary or assistant secretary and the keeper of the records and corporate seal, if any;

an unincorporated association or organization and the individual(s) signing this Resolution is the keeper of the records and seal, if any;

a limited liability company organized under the laws of the state/country of and the individuals signing this Resolution constitute all of the members or managers, as appropriate of the company.

and that the following is a true and correct copy of the resolutions adopted by the Business and that such resolutions are now in full force and effect.

## Depository and Withdrawal Authorization

RESOLVED, that the Bank is designated a depository in which the funds of the Business may be deposited and/or withdrawn by any one of the persons listed below in the manner so designated, subject to the Bank's deposit account agreement as the same may be amended from time to time. Each person so listed is authorized to endorse for collection, deposit, or negotiation any and all checks, drafts, notes, bills of exchange, certificates of deposit, and order for the payment or transfer of money between accounts at the Bank and other banks, either belonging to or coming into the possession of the Business. Endorsements "for deposit" may be written or stamped. The Bank may accept any instrument for deposit to any depository account of the Business without endorsement or may supply the endorsement of the Business. The person(s) so designated is authorized to sign any and all checks, drafts, and orders drawn against any designated account(s) of the Business (including savings accounts) at the Bank. The Bank is authorized to honor and pay all checks, drafts, and orders when so signed or endorsed without inquiry as to the circumstances of issue or disposition of the proceeds and regardless of to whom such instruments are payable or endorsed, including those drawn or endorsed to the individual order of any such person listed, even if doing so causes or increases an overdraft.

Print Name

Title

Facsimile Signatures if Applicable

ZINDEL ZELMANOVITCH

CHAIRMAN

EDDIE SCHULMAN

PRESIDENT

YITZAK ZELMANOVITCH

VICE-PRESIDENT/SEC

## Signing Authorization

RESOLVED, that any one of the person(s) indicated above is authorized to act for and on behalf of the Business in any matter involving any of the Business' depository accounts at the Bank, including the authority to instruct the Bank to close the account, to give instructions by means other than the signing of any item with respect to account transactions such as those initiated via electronic debit, payment, wire transfer, or other withdrawal of funds by computer, electronic or other technologic means, and is further authorized to sign and implement for and in the name on behalf of the Business, as they, or any of them see fit, the agreements, instruments, drafts, orders, certificates, or other documents, relating to any depository accounts or other business of the Business including, but not limited to payroll agreements, repurchase agreements, night depository agreements, funds transfer agreements, agreements for automated clearinghouse services, agreements for online services, and/or safe deposit agreements.

## Facsimile Signature Authorization

RESOLVED, that the Bank is authorized and directed to honor checks, drafts, and orders for the payment of money drawn on any of the accounts listed above including those drawn to the individual order of any person when the check, draft, or order bears or purports to bear the facsimile signature(s) as shown above or on the signature card. The Bank shall be indemnified and held harmless against any forgery, or unauthorized use or misuse of the facsimile signing devices.

## Further Authorizations

BE IT FURTHER RESOLVED that the secretary or assistant secretary (if a corporation or unincorporated association), the sole owner/proprietor (if a sole proprietorship), any member or manager as appropriate (if a limited liability company), or any general partner (if a partnership) is authorized to certify to the Bank the name, title, specimen signature and facsimile signature with respect to any additions or deletions of persons authorized to carry out the purposes and intent of these resolutions and that this resolution shall remain in full force and effect until express written notice of rescission or modification is received by the Bank. If the authority contained herein should be revoked or terminated by operation of law or any other reason without such notice, it is resolved that the Bank shall be indemnified and saved harmless from any and all losses suffered or liabilities incurred by it in so acting after such revocation or termination without notice.

IN WITNESS WHEREOF the undersigned has hereunder subscribed his/her name(s) and affixed the seal, if any, of the Business this day of

For a Corporation or Unincorporated Association or Organization:

For Sole Proprietorship:

For Partnership (all general partners must sign) /

For Limited Liability Company (all members must sign):

Secretary

Owner/Sole Proprietor

Partner/Member/Manager

Partner/Member/Manager

Partner/Member/Manager

JPMorgan Chase Bank, N.A. Member FDIC  
Catalog # 04362 (12/06)

DISTRIBUTION: 1) National Account Maintenance 2) Customer

66150

(800/60/10)

# EXHIBIT C



## Business Signature Card

ACCOUNT TITLE ("DEPOSITOR")

FAST LEAST VENTURE  
CAPITAL INC.

ACCOUNT NUMBER

ACCOUNT TYPE

TAXPAYER ID NUMBER

DATE OPENED

FORM OF BUSINESS

ISSUED BY

BANK NO.

BUSINESS ADDRESS 241 5TH AVE RM 302

NY NY 10016

PRIMARY ID TYPE

PRIMARY ID NUMBER

ISSUER

ISSUANCE DATE

EXPIRATION DATE

SIGNER(S) TO BE ADDED LATER

**ACKNOWLEDGEMENT** By signing this Signature Card, the Depositor agrees to open a deposit account at JPMorgan Chase Bank, N.A. (the Bank). The Depositor represents and warrants that (i) the signatories appearing below are genuine or facsimile signatures of the person(s) authorized to transact business and (ii) all necessary actions or formalities, where necessary, have been taken to authorize the named person(s) to so act. The Bank is entitled to rely on the authority of the named person(s) until written revocation of such authority is received by the Bank. The Depositor certifies that the information provided to the Bank is true to the best of its knowledge and authorizes the Bank, at its discretion, to obtain credit reports on the Depositor and the individual(s) listed below. The Depositor acknowledges receipt of the Bank's Account Rules and Regulations or other applicable account agreement, which includes all provisions that apply to this deposit account, and other agreements and service terms for account analysis and other treasury management services if applicable, and agree to be bound by the terms and conditions contained therein as amended from time to time.

**CERTIFICATION** - The undersigned certifies under penalties of perjury that (1) the Depositor's Taxpayer Identification Number shown above is correct and (2) the Depositor is not subject to backup withholding because: (a) the Depositor is exempt from backup withholding, or (b) the Depositor has not been notified by the Internal Revenue Service (IRS) that it is subject to backup withholding as a result of failure to report all interest or dividends, or (c) the IRS has notified the Depositor that it is no longer subject to backup withholding, and (3) the Depositor is a U.S. person (including a U.S. resident alien). If the IRS has notified the Depositor that it is subject to backup withholding due to underreporting interest or dividends on its tax return, cross out item 2 above.

☐ The Depositor is a foreign entity, and therefore the penalties of perjury certification on this form do not apply. In addition, the Depositor has certified its foreign status to the Bank by completing the appropriate Form W-8.

The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to avoid backup withholding.

PRINTED NAME

TAXPAYER ID #

TITLE

DATE

SIGNATURE

ZINDER DEANAVONITON

FREEMAN SCHUCHMAN

YITZHAK ZEEHANOVITCH

JPMORGAN CHASE BANK, N.A. MEMBER FDIC

10817 (07/07)

JAN 09 2008

JWS

u By Doc Prep

# EXHIBIT D

## BUSINESS DEPOSITORY RESOLUTION

CHASE 

NEW CHANGE

ACCOUNT NO. 2140BANK NAME/NUMBER JPMORGAN CHASE BANK N.A.ACCOUNT TITLE EAST COAST VENTURE CAPITAL INCBRANCH NAME AND NO. NEW YORK LIFE

000008

BUSINESS ADDRESS 241 5TH AVE, RM 302  
NY NY 10016DATE  
11/06/07PREPARED BY  
SACHIN KUMARPHONE NO.  
212/684-2408TAXPAYER ID NO. 13-2255653 PRODUCT TYPE (SBA) SPECIFIED SHAW BULL INV COMPANYLegal Name of Business EAST COAST VENTURE CAPITAL INC (the "Business")

The individual(s) signing this Resolution hereby certifies to JPMorgan Chase Bank, N.A. ("The Bank") that the Business is (check one):

☐ a sole proprietorship owned entirely by the individual signing this Resolution;☐ a duly formed and valid existing☐ general partnership ☐ limited partnership ☐ limited liability partnership ☐ limited liability limited partnership ☐ joint venture☐ organized under the laws of the state/country of \_\_\_\_\_ and the persons signing this Resolution constitute all of the general partners of the partnership☒ a corporation duly organized and in good standing under the laws of the state/country of DELAWARE and that the individual signing this Resolution is its secretary or assistant secretary and the keeper of the records and corporate seal, if any;☐ an unincorporated association or organization and the individual(s) signing this Resolution is the keeper of the records and seal, if any;☐ a limited liability company organized under the laws of the state/country of \_\_\_\_\_ and the individuals signing this Resolution constitute all of the members or managers, as appropriate of the company.

and that the following is a true and correct copy of the resolutions adopted by the Business and that such resolutions are now in full force and effect.

## Depository and Withdrawal Authorization

RESOLVED, that the Bank is designated a depository in which the funds of the Business may be deposited and/or withdrawn by any one of the persons listed below in the manner so designated, subject to the Bank's deposit account agreement as the same may be amended from time to time. Each person so listed is authorized to endorse for collection, deposit, or negotiation any and all checks, drafts, notes, bills of exchange, certificates of deposit, and order for the payment or transfer of money between accounts at the Bank and other banks, either belonging to or coming into the possession of the Business. Endorsements "for deposit" may be written or stamped. The Bank may accept any instrument for deposit to any depository account of the Business without endorsement or may supply the endorsement of the Business. The person(s) so designated is authorized to sign any and all checks, drafts, and orders drawn against any designated account(s) of the Business (including savings accounts) at the Bank. The Bank is authorized to honor and pay all checks, drafts, and orders when so signed or endorsed without inquiry as to the circumstances of issue or disposition of the proceeds and regardless of to whom such instruments are payable or endorsed, including those drawn or endorsed to the individual order of any such person listed, even if doing so causes or increases an overdraft.

Print Name

ZINDEL ZELMANOVITCH  
EDWARD SCHULMAN  
VITZBAK ZELMANOVITCH

Title

CHAIRMAN  
PRESIDENT  
VICE - PRESIDENT/SEC

Facsimile Signatures If Applicable

## Signing Authorization

RESOLVED, that any one of the person(s) indicated above is authorized to act for and on behalf of the Business in any matter involving any of the Business' depository accounts at the Bank, including the authority to instruct the Bank to close the account, to give instructions by means other than the signing of any item with respect to account transactions such as those initiated via electronic debit, payment, wire transfer or other withdrawal of funds by computer, electronic or other technologic means, and is further authorized to sign and implement for and in the name on behalf of the Business, as they, or any of them see fit, the agreements, instruments, drafts, orders, certificates, or other documents, relating to any depository accounts or other business of the Business including, but not limited to payroll agreements, repurchase agreements, night depository agreements, funds transfer agreements, agreements for automated clearinghouses services, agreements for online services, and/or safe deposit agreements.

## Facsimile Signature Authorization

RESOLVED, that the Bank is authorized and directed to honor checks, drafts, and orders for the payment of money drawn on any of the accounts listed above including those drawn to the individual order of any person when the check, draft, or order bears or purports to bear the facsimile signature(s) as shown above or on the signature card. The Bank shall be indemnified and held harmless against any forgery, or unauthorized use or misuse of the facsimile signing device.

## Further Authorizations

BE IT FURTHER RESOLVED that the secretary or assistant secretary (if a corporation or unincorporated association), the sole owner/proprietor (if a sole proprietorship), any member or manager, as appropriate (if a limited liability company), or any general partner (if a partnership) is authorized to certify to the Bank the name, title, specimen signature and facsimile signature with respect to any additions or deletions of persons authorized to carry out the purposes and intent of these resolutions and that this resolution shall remain in full force and effect until express written notice of rescission or modification is received by the Bank. If the authority contained herein should be revoked or terminated by operation of law or any other reason without such notice, it is resolved that the Bank shall be indemnified and saved harmless from any and all losses suffered or liabilities incurred by it in so acting after such revocation or termination without notice.

IN WITNESS WHEREOF the undersigned has hereunder subscribed his/her name(s) and affixed the seal, if any, of the Business this \_\_\_\_\_ day of \_\_\_\_\_

For a Corporation or Unincorporated Association or Organization:

For Sole Proprietorship:

For Partnership (all general partners must sign) /  
For Limited Liability Company (all members must sign):

Secretary

Owner/Sole Proprietor

Partner/Member/Manager

THIS IS A NOT-FOR-PROFIT BUSINESS

Partner/Member/Manager

JPMorgan Chase Bank, N.A. Member FDIC  
Catalog # 04362 (12/00)

DISTRIBUTION: 1) National Account Maintenance 2) Customer

Partner/Member/Manager

SET 50

180/60/101

# EXHIBIT E

### Business Signature Card

ACCOUNT TITLE ("DEPOSITOR")

EAST COAST VENTURE  
CAPITAL INC.

**ACCOUNT NUMBER**

ACCOUNT TYPE

TAXPAYER ID NUMBER

DATE OPENED

# FORM OF BUSINESS

人證 Q37881

**BANK NO.**

BUSINESS ADDRESS 241 5TH AVE. RA. 302  
N4 N4 10016

PRIMARY ID TYPE

PRIMARY ID NUMBER

## ISSUE

ISSUANCE DATE

**EXPIRATION DATE**

**SIGNER(S) TO BE ADDED LATER**

**ACKNOWLEDGEMENT** By signing this Signature Card, the Depositor agrees to open a deposit account at JPMorgan Chase Bank, N.A. (the Bank). The Depositor represents and warrants that (i) the signatures appearing below are genuine or facsimile signatures of the person(s) authorized to transact business and (ii) all necessary actions or formalities, where necessary, have been taken to authorize the named person(s) to do so on behalf of the Bank. The Bank is entitled to rely on the authority of the named person(s) until written revocation of such authority is received by the Bank. This Depositor certifies that the information provided to the Bank is true to the best of his/her knowledge and authorizes the Bank, at its discretion, to obtain credit reports on the Depositor and the individual(s) listed below. The Depositor acknowledges receipt of the Bank's Account Rules and Regulations or other applicable account agreement, which includes all provisions that apply to this deposit account, and other agreements and service terms for account analysis and other treasury management services if applicable, and the Depositor understands and agrees that the account and all associated conditions contained therein are amended from time to time.

agree to be bound by the terms and conditions contained hereon and to accept the entire contents of this Form as a true and correct statement of the information required to be furnished hereon.

**CERTIFICATION** - The undersigned certifies under penalties of perjury that (1) the Depositor's Taxpayer Identification Number shown above is correct and (2) the Depositor is not subject to backup withholding because: (a) the Depositor is exempt from backup withholding, or (b) the Depositor has not been notified by the Internal Revenue Service (IRS) that it is subject to backup withholding as a result of failure to report all interest or dividends, or (c) the IRS has notified the Depositor that it is no longer subject to backup withholding, and (3) the Depositor is a U.S. person (including a U.S. resident alien).

☐ The Depositor has notified the Depositor that it is subject to Section 809(a)(2) of the Internal Revenue Code and therefore the penalties of perjury certification on this form do not apply. In addition, the Depositor has certified its foreign status to the Bank by completing the FD-900.

**The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to avoid backup withholding.**

Appropriate Form V-9.

DATE	TITLE	SIGNATURE
------	-------	-----------

PRINTED NAME

**TAXPAYER ID #**

### STILL

# PLAY

## SIGNATURE

21ND22 2EdrA-W0117ch

700505 Zohar

1126 AK 2204 ANODIFCH

PROCESSED

071274

JP Morgan Chase Bank, N.A. Member FDIC  
40817 (07AD7)

544

Doc PREP  
144000

# EXHIBIT F